

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER: 98-0495****Adjusted Gross Income Tax****For Calendar Years 1992, 1993, 1994, and 1995**

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**ISSUE(S)****I. Net Operating Loss – Carryback**

**Authority:** 45 IAC 3.1-1-9

Taxpayer protests the adjustment to the net operating loss.

**STATEMENT OF FACTS**

Taxpayer protests the audit adjustment to its net operating loss. Taxpayer was audited for calendar years 1992 through 1995. The income before nonbusiness income was adjusted for the addback of property and income taxes deducted in arriving at Federal Taxable Income before NOL and special deductions. The apportionment factors were also adjusted as shown in the audit report. The aforementioned adjustments affected the taxable income for the years 1992 and 1993 and the losses for the years 1994 and 1995. The taxpayer had not elected to forgo the loss carry back, therefore, the 1994 loss was required to be carried back three years, however, this 1994 loss could not be applied to 1991 since 1991 was a loss year. As a result of the audit, the net operating loss for 1994 was applied to reduce the taxable income to zero for 1992 and 1993 with a \$514,512 net operating loss available for carryforward to future periods.

Taxpayer filed a protest letter dated August 17, 1998 that states that it does not agree with the auditor's calculations. Taxpayer further states that detailed information would be provided and wishes to arrange for a meeting to discuss the issues.

In letters dated September 9, 1999, October 13, 1999, November 10, 1999, February 29, 2000, November 28, 2000, January 30, 2001, and February 6, 2001, the Department asked the taxpayer to provide detail regarding its objections to the audit. In a telephone conversation, it was determined that the taxpayer protests the loss carryforward adjustments. On March 16, 2001, a hearing was scheduled for April 4, 2001 that the taxpayer cancelled. On June 19, 2002 a hearing was rescheduled for July 17, 2002 that the taxpayer cancelled. On July 31, 2002 after

discussions with the taxpayer's representative, a copy of the audit was mailed with a letter stating that the department must have a detailed brief. On September 9, 2002 the hearing officer allowed until November 15, 2002 for the taxpayer to provide a written brief and followed the discussion with a letter stating that no further extensions would be allowed.

**I. Net Operating Loss – Carryback**

**DISCUSSION**

Taxpayer protested the audit but has provided no detail or reasons for its disagreement. During a conversation with the hearing officer, it was determined that the taxpayer disagrees with the loss carryforwards as shown in the audit report.

The taxpayer did not elect to forgo the loss carryback in 1994 and did not carry the loss back or forward. The 1994 loss was required to be carried back three years; however, the 1994 loss could not be applied to 1991 since 1991 was a loss year. As a result, the net operating loss from 1994 was applied to reduce the taxable income to zero for 1992 and 1993 with a \$514,512 net operating loss available for carryforward to future periods.

On numerous occasions, the Department asked for detail regarding taxpayer's objections to the audit. No information has been provided the Department.

**FINDING**

Taxpayer's protest is denied.